

Structuring Teaming Agreements: Joint Ventures or Subcontracts?

A Discussion on Joint Ventures

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WHAT IS A JOINT VENTURE

An association of individuals and/or concerns to combine their property, capital, efforts, skills, and knowledge to carry out no more than three specific or limited-purpose business ventures for joint profit over a two-year period. (13 C.F.R. § 121.103(h))

CORE CHARACTERISTICS

Main Characteristics:

- Co-management
- Sharing profits and losses
- Limited duration

Competing as a JV:

- should be formed before submitting offer
- should provide for contract performance
- FAR requires disclosure in the proposal

Forms of Joint Venture:

- Partnership
- Limited Liability Company
- Corporation

ADVANTAGES OF A JV

- Teaming gaps and joint ownership
- Stay small if you are facing upper limits of NAICS code size restrictions
- Win work that a SB could not win on its own

DISADVANTAGES OF A JV

- Some DOE Customers dislike b/c of a lack of a single point of accountability.
- Teaming agreements, despite ownership divisions can be contentious

ESTABLISHING A JV

- **Step 1: Find the right partner**
- **Step 2: Ensure the JV satisfies the applicable set-aside requirements**
- **Step 3: Choose the legal form (partnership vs. LLC)**
- **Step 4: Determine the management structure/labor (populated vs. unpopulated)**
- **Step 5: Draft the joint venture agreement**

RECENT SUCCESSFUL DOE JVs

- Some DOE Customers dislike b/c of no single point of accountability.
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NEW RULINGS & REGULATIONS

- BGI-Fiore – Certification of JV prior to submission of proposal (May 2014)
- Audit Report: IG-0898 – Contract Awards to Small Business Under the [DOE] Mentor-Protégé Program (Nov 2013)

RESOURCES

- **CRC Technologies – capture management, proposal preparation, teaming, legal entity formation, mentor protégé agreements, GAO protest consulting**
- **Pam Mazza – The Ins & Outs of Joint Ventures (April 2014)**
- **Teaming partners, mentors, colleagues**
- **Local SBA representative**